

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 19CR3113 JB

LUIS SANCHEZ,

Defendant.

**ORDER DENYING EMERGENCY MOTION**

THIS MATTER is before the Court on Defendant Luis Sanchez' Opposed Emergency Motion to Consider Order Granting Detention Pending Trial (*Doc. 251*) that was filed yesterday. In essence, Luis Sanchez seeks release from detention for up to 48 hours to attend the funeral and burial of his youngest brother, Raul. The services are scheduled for today and tomorrow, July 24, 2020. Specifically, Defendant Sanchez

requests that this Court release him with conditions that he will be under house arrest with GPS tracking at a third-parties house and only be allowed to attend the viewing and then the funeral service. Mr. Sanchez can be picked up from the Cibola County Correctional Center taken to the Las Vegas area for the viewing and funeral. Mr. Sanchez will be able to stay with Lucy Trujillo for the duration of his release conditions and will be returned to the Cibola Correctional Facility.

*Doc. 251* at 2. Having reviewed the Motion and the relevant records in the court file, the Court finds that a hearing is unnecessary for its decision. The motion will be denied.

Defendant Sanchez is charged in three counts of a multi-defendant Grand Jury indictment alleging that he conspired with others to distribute controlled substances (Count I), felon in possession of a firearm (Count 8), and using and carrying a firearm

during and in relation to a drug trafficking crime (Count 9). Given the charges, Congress has imposed a rebuttable presumption that no combination of conditions for release will adequately assure the attendance of the defendant at future court proceedings or assure the safety of the community. 18 U.S.C. § 3142(e)(3)(A).

I held more than an hour-long evidentiary hearing on September 25, 2019 which included testimony of Agent Micheal Mostaghni. Having reviewed the recording of that hearing, the Court feels even more confident that it correctly found Defendant Luis Sanchez to be both a significant risk of nonappearance and most importantly, a danger to the community. My Order of Detention and comments from the bench set forth my reasons in finding that there are no combination of conditions for release that could adequately address those concerns – and that would include the conditions for temporary release now proposed by the defendant.

The Court recognizes the emotional distress that accompanies the death of a loved one and regrets the pain that comes with that loss. Nevertheless, the Court is unconvinced that any conditions for temporary release could adequately protect the community, especially given Agent Mostaghni's testimony regarding substantial weight of the evidence supporting the instant charges and also the November 21, 2018 pending charge of shooting at an occupied building.

Finally, the current COVID-19 coronavirus pandemic further complicates the logistics and analysis of risks that would be associated with a relatively short furlough. Inherent conditions of pretrial confinement naturally create an environment for the enhanced transmission of a contagious disease. These inherent conditions – especially the ability to socially distance – have been thoroughly set forth in numerous briefs and judicial opinions, so I will not repeat them here.

Indeed, our District's actual experience during this pandemic demonstrates the increased risk of spread of the virus among a confined population of detainees and inmates. For instance, one of the detention facilities in New Mexico used to house federal detainees – the Otero County Detention Facility –has experienced significant numbers of its federal detainees testing positive for the COVID-19 virus. As of June 28, 2020, the novel coronavirus had infected 275 individuals in federal custody at that facility. See <https://www.newmexico.gov/2020/06/28/updated-new-mexico-covid-19-cases-now-at-11809/> (last visited 06/29/2020).

Just this week, our Chief Judge agreed to cease all traffic in and out of the Cibola County Correctional Center, where Defendant Luis Sanchez is held, and ordered that until further notice, no in-person hearings will be held that involve Cibola County detainees. This action was taken due to reported recent increases in inmates located there testing positive for COVID-19. The Cibola facility has implemented measures to address the pandemic and has this far succeeded in preventing a major outbreak of this highly contagious virus. Nonetheless, the Court's concern of unintentional potential spread of COVID-19 to the Las Vegas community that might result from granting the requested furlough factors into its analysis.

Wherefore,

IT IS HEREBY ORDERED that Defendant Sanchez' Emergency Motion (*Doc. 251*) is **denied**.

  
UNITED STATES MAGISTRATE JUDGE